

### **REMARKS**

The Applicant thanks the Examiner for the courteous interview of February 26, 2009.

The claims (1-3 and 9) have been rejected under 35 U.S.C. §103(a) as being obvious in view of Stockley and U.S. Patent No. 6,748,726 to Rossi et al. ("Rossi"). Claims 4-8 were rejected as above with the addition of Sanfilippo.

The Examiner stated in the rejection to Claims 1-3 and 9, that Stockley does not teach "clamping of the edges upper film by closing the chamber parts...where the film is clamped at its edges prior to being sealed to tray..." Rossi is introduced in the Action to allegedly teach the deficiency of Stockley. However, Rossi at no point clamps the film by closing the chamber parts, "along an edge surrounding the tray," prior to being sealed.

The invention requires, and the claims recite, that there is (1) clamping of the upper film along the edge surrounding the tray by closing the sealing station, (2) stretching the film, and (3) then moving the tray upwardly and then, sealing the tray with the upper film. The claims, as amended, now require this specific order of operation.

This is to be contrasted with Stockley, wherein the upper film 24 is first pulled (by vacuum), i.e., stretched across the dome of the upper part of the chamber before any clamping. Stockley's chamber is then closed. Finally, Stockley releases the vacuum on the film for it to "drape and shrink over the product." (11, 8-10). Applicant's invention, again, clamps along the tray edge, stretches, *then* raises the tray for sealing, all in a manner very different from Stockley.

Rossi does not, in fact, teach or suggest the deficiency of Stockley noted above. Close inspection of Rossi clearly shows that the film 11 is not clamped by upper and lower chamber parts 3 and 2 (see Figs. 1-3) along an edge surrounding the tray. It is noted that the chamber parts do not ever clamp the film *at the right edge of the figure* (see Fig. 1), and furthermore, is only clamped

(with the tray) along a left side of the figure by the chamber parts.

Specifically, in Rossi, film 11 enters the right side of the chamber through a slot in the upper chamber part. The upper chamber part 3 is seen to clamp the tray 4a at part 18 together with the film 11 at the left side and only clamps the tray 4 at 4a on the right side. So, the film, as taught by Rossi, is not shown or suggested as being clamped "along an edge surrounding the tray," *only along part of the edge* surrounding the tray.

Figure 3 of Rossi shows a welding head inside of the chamber which lowers to weld the film to the tray. However, the welding step is the final operation and therefore, there is no teaching or suggestion to clamp the surrounding edge prior to sealing the film to the tray, or before other operations and thus, the welding step does not teach the deficiency of Stockley.

Since all of the claims require *clamping an edge of the film surrounding the tray, prior* to the film being stretched and then sealed, Rossi is clearly deficient in supplying the admitted missing limitations of Stockley. Because the combination of Stockley and Rossi do not teach all of the claim limitations, there is no *prima facie* case of obviousness.

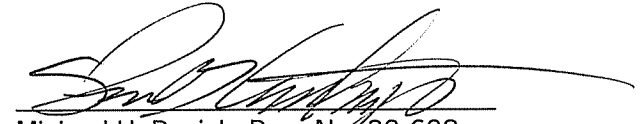
The rejection of Claims 4-8 combined Sanfilippo with the above references, but the deficiency of Rossi is not taught in Sanfilippo as detailed above.

Claims 1-3 and 9 are not obvious in view of Stockley and Rossi, because, as shown above, there is no *prima facie* case of obviousness. Claims 4-8 are not obvious in view of the combination of Stockley and Rossi, and further of Sanfilippo, because Sanfilippo does not provide the deficiency of Rossi. Therefore, the rejections based on 35 C.F.R. §103(a) are traversed.

A Notice of Allowance is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Michael H. Baniak", written over a horizontal line.

Michael H. Baniak, Reg. No. 30,608  
Steven B. Courtright, Reg. No. 40,966

McDonnell Boehnen Hulbert & Berghoff LLP  
300 S. Wacker Drive  
Chicago, Illinois 60606  
312.913.0001